

OFFICE OF THE CLERK  
UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

Richard W. Wieking  
Clerk

450 Golden Gate Avenue  
San Francisco, CA 94102  
415.522.2000

November 7<sup>th</sup>, 2007

District of Massachusetts  
595 Main Street  
Worcester, MA 01608

Re: MDL 05-1699 In re Bextra & Celebrex Marketing, Sales Practices & Products Liability Lit.

Title of Case(s)  
*Darlene Bernard -v- Merck & Co., Inc., et al.*

Your Case Number(s)  
C.A. No. 4:07-40254

Dear Clerk:

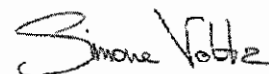
Enclosed is a certified copy of the order from the Judicial panel on Multidistrict Litigation transferring the above entitled action to the Northern District of California, San Francisco Division. The case has been assigned to the Honorable Charles R. Breyer for coordinated or consolidated pretrial processing pursuant to 28 USC §1407.

Please forward the original record and a certified copy of the docket entries in the case listed above along with the enclosed copy of this transmittal letter to:

United States District Court  
Northern District of California  
450 Golden Gate Avenue, P.O. Box 36060  
San Francisco, CA 94102  
Attn: Simone Voltz

If the case is an electronic case filing please do one of the following: 1) e-mail the PDF documents, as separate PDF files, including a PDF copy of the docket sheet to [Sfmdl\\_clerk@cand.uscourts.gov](mailto:Sfmdl_clerk@cand.uscourts.gov); 2) provide us with a temporary log in and a password to directly access your database and to expedite the downloading of the PDF files we need and/or require, or, if you prefer, on a disc. We appreciate your prompt attention to this matter.

Sincerely yours,  
Richard W. Wieking, Clerk



By: Simone Voltz  
Deputy Clerk

Encl.

**UNITED STATES JUDICIAL PANEL**  
**on**  
**MULTIDISTRICT LITIGATION**

**CHAIRMAN:**  
Judge John G. Heyburn II  
United States District Court  
Western District of Kentucky

**MEMBERS:**  
Judge D. Lowell Jensen  
United States District Court  
Northern District of California

Judge J. Frederick Motz  
United States District Court  
District of Maryland

Judge Robert L. Miller, Jr.  
United States District Court  
Northern District of Indiana

Judge Kathryn H. Vratis  
United States District Court  
District of Kansas

Judge David R. Hansen  
United States Court of Appeals  
Eighth Circuit

Judge Anthony J. Scirica  
United States Court of Appeals  
Third Circuit

**DIRECT REPLY TO:**

Jeffery N. Lüthi  
Clerk of the Panel  
One Columbus Circle, NE  
Thurgood Marshall Federal  
Judiciary Building  
Room G-255, North Lobby  
Washington, D.C. 20002

Telephone: (202) 502-2800  
Fax: (202) 502-2888  
<http://www.jpml.uscourts.gov>

November 7, 2007

Richard W. Wieking, Clerk  
Phillip Burton U.S. Courthouse  
Box 36060  
450 Golden Gate Avenue  
San Francisco, CA 94102-3489

Re: MDL No. 1699 -- IN RE: Bextra and Celebrex Marketing, Sales Practices and Products Liability Litigation

(See Attached CTO-85)

Dear Mr. Wieking:

I am enclosing a certified copy and one additional copy of a conditional transfer order filed by the Panel in the above-captioned matter on October 22, 2007. As stipulated in Rule 7.4(a) of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001), transmittal of the order has been stayed 15 days to give any party an opportunity to oppose the transfer. The 15-day period has now elapsed, no opposition was received, and the order is directed to you for filing.

The Panel's governing statute, 28 U.S.C. §1407, requires that the transferee clerk "...transmit a certified copy of the Panel's order to transfer to the clerk of the district court from which the action is being transferred."

A list of involved counsel is attached.

Very truly,

Jeffery N. Lüthi  
Clerk of the Panel

By Dana R. Stewart  
Deputy Clerk

I hereby certify that the annexed instrument is a true and correct copy of the original on file in my office.

ATTEST:

RICHARD W. WIEKING  
Clerk, U.S. District Court  
Northern District of California

By [Signature]  
Deputy Clerk

Date 11-7-07

Attachment

cc: Transferee Judge: Judge Charles R. Breyer  
Transferor Judges: Judge Jimm Larry Hendren; Judge F. Dennis Saylor  
Transferor Clerks: Christopher R. Johnson; Sara Thornton

JPML Form 36

JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION

OCT 22 2007

FILED  
CLERK'S OFFICE

**A CERTIFIED TRUE COPY**

NOV - 7 2007

ATTEST *Donna Stewart*  
FOR THE JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION

UNITED STATES JUDICIAL PANEL  
on  
MULTIDISTRICT LITIGATION

**IN RE: VIOXX MARKETING, SALES PRACTICES AND  
PRODUCTS LIABILITY LITIGATION**

MDL No. 1657

**IN RE BEXTRA AND CELEBREX MARKETING, SALES  
PRACTICES AND PRODUCTS LIABILITY LITIGATION**

MDL No. 1699

Thomas L. Penticoff v. Merck & Co., Inc., et al.,  
W.D. Arkansas, C.A. No. 5:07-5166  
Darlene Bernard v. Merck & Co., Inc., et al.,  
D. Massachusetts, C.A. No. 4:07-40254

**MDL No. 1657 CONDITIONAL TRANSFER ORDER (CTO-120)  
WITH SEPARATION, REMAND AND  
MDL No. 1699 CONDITIONAL TRANSFER ORDER (CTO-85)**

On February 16, 2005, the Panel transferred 138 civil actions to the United States District Court for the Eastern District of Louisiana for coordinated or consolidated pretrial proceedings in MDL No. 1657 pursuant to 28 U.S.C. § 1407. *See* 360 F.Supp.2d 1352 (J.P.M.L. 2005). Since that time, 6,384 additional actions have been transferred to the Eastern District of Louisiana. With the consent of that court, all such actions have been assigned to the Honorable Eldon E. Fallon.

On September 6, 2005, the Panel transferred 30 civil actions to the United States District Court for the Northern District of California for coordinated or consolidated pretrial proceedings in MDL No. 1699 pursuant to 28 U.S.C. § 1407. *See* 391 F.Supp.2d 1377 (J.P.M.L. 2005). Since that time, 1,154 additional actions have been transferred to the Northern District of California. With the consent of that court, all such actions have been assigned to the Honorable Charles R. Breyer.

It appears that the actions on this conditional transfer order comprise claims relating to: 1) the prescription drug Vioxx, which involve common questions of fact with the previously transferred MDL No. 1657 actions; and 2) the prescription drugs Bextra and/or Celebrex, which involve common questions of fact with the previously transferred MDL No. 1699 actions.

Inasmuch as no objection is  
pending at this time, the  
stay is lifted.

NOV - 7 2007

CLERK'S OFFICE  
JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION

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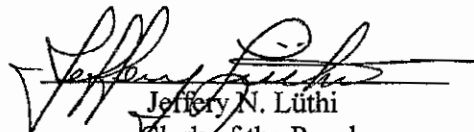
Pursuant to Rule 7.4 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001), these actions are transferred under 28 U.S.C. § 1407 to the Eastern District of Louisiana for the reasons stated in the MDL No. 1657 transfer order of February 16, 2005, and, with the consent of that court, assigned to the Honorable Eldon E. Fallon.

The claims in each action relating to Bextra and/or Celebrex are hereby separated and simultaneously remanded, under 28 U.S.C. § 1407(a), to their respective transferor courts.

Pursuant to Rule 7.4 of the Rules of Procedure of the Judicial Panel on Multidistrict Litigation, 199 F.R.D. 425, 435-36 (2001), the resulting Bextra/Celebrex actions are transferred under 28 U.S.C. § 1407 to the Northern District of California for the reasons stated in the MDL No. 1699 transfer order of September 6, 2005, and, with the consent of that court, assigned to the Honorable Charles R. Breyer.

This order does not become effective until it is filed in the offices of: 1) the Clerk of the United States District Court for the Eastern District of Louisiana; and 2) the Clerk of the United States District Court for the Northern District of California. The transmittal of this order to said Clerks shall be stayed 15 days from the entry thereof. If any party files a notice of opposition with the Clerk of the Panel within this 15-day period, the stay will be continued until further order of the Panel.

FOR THE PANEL:

  
Jeffery N. Lüthi  
Clerk of the Panel

**IN RE: VIOXX MARKETING, SALES PRACTICES AND  
PRODUCTS LIABILITY LITIGATION (CTO-120)**

MDL No. 1657

**IN RE: BEXTRA AND CELEBREX MARKETING, SALES  
PRACTICES AND PRODUCTS LIABILITY  
LITIGATION (CTO-85)**

MDL No. 1699

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